

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GARY STUBBS,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION FILE
)	NO. 1:11-cv-01367-AT
)	
BANK OF AMERICA, BAC HOME)	
LOANS SERVICING, LP, AND)	
FEDERAL NATIONAL MORTGAGE)	
ASSOCIATION,)	
)	
Defendants.)	
)	

MOTION FOR MODIFICATION OF THE MEDIATION ORDER

Defendants Bank of America, N.A., on behalf of itself and as successor by merger to BAC Home Loans Servicing, LP¹ (“BANA”), and Federal National Mortgage Association (“Fannie Mae” all collectively, the “Defendants”), by counsel respectfully file this motion for modification of this Court’s February 24, 2012 Order directing the parties to mediation.

1. On February 24, 2012, this Court issued an Order for mediation in the above captioned matter. *See* Doc. 22. As part of the Order, this Court instructed Plaintiff to provide to Defendants the Plaintiff’s two (2) most recent pay stubs from

¹ BAC Home Loans Servicing, L.P. merged with and into Bank of America, N.A. on July 1, 2011.

his employer(s), documentation of any other form of household income, and the last two (2) monthly statements from each of the Plaintiff's bank(s) and each other financial institution at which Plaintiff has an account of any kind. Plaintiff was also required to provide his most recent federal income tax return as well as a completed Request for Mortgage Assistance form and IRS Form 4506T. *Id.*

2. Plaintiff was required to submit this documentation to Defendants within fourteen (14) days of the Order (March 9, 2012). *Id.*

3. As of the date of this filing, he has failed to provide any of the required documentation to Defendants. As this Court's Order contemplates, the process of evaluating financial information and determining potential loan modification options takes time. Because of Plaintiff's failure to comply with the Court Order, Defendants have been unable to begin that process.

4. With the Parties contemplating an early April mediation date, and Plaintiff providing no documentation to date, it is unlikely that Defendants will be able to process the required documentation prior to the mediation – even if the documents were received today.

5. As such, Defendants respectfully request this Court modify the Order to remove any reference to a loan modification including the requirements that (i) Defendants consider all loan modification options prior to the mediation, and (ii)

that Defendants' representative have the full authority to negotiate, amend, and modify all terms of the mortgage.

6. Instead, Defendants will present at the mediation a corporate representative with the authority to negotiate and resolve the dispute, including entering into a monetary settlement.

7. To the extent that Plaintiffs submit required documentation before or at the mediation, Defendants would still consider the Plaintiff for a loan modification. However, because of Plaintiff's failure to comply with this Court's Order and provide the necessary documentation, consideration of potential modification options may not occur prior to the mediation.

WHEREFORE, Defendants respectfully request that this Court grant their Motion for Modification of the Mediation Order.

This 16th day of March, 2012.

/s/ Andrew G. Phillips
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Association*

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of March, 2012, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF System, which sent notification of such filing to all counsel of record.

/s/ Andrew G. Phillips
Andrew G. Phillips